

**From:** Judith [mailto:JudithSaylor@comcast.net]

**Sent:** Wednesday, June 10, 2015 11:00 PM

**To:** Representative Tom Barrett; The Office of Senator O'Brien; kgawronski@house.mi.gov; Leta Howard

**Cc:** Representative John Bizon; The Office of Senator Nofs

**Subject:** Joint Committee Meeting June 11, 2015: House Military and Veterans Affairs and Senate Veterans, Military Affairs and Homeland Security

Joint Committee Meeting

House Military and Veterans Affairs, Rep. Tom Barrett, Chair; and  
Senate Veterans, Military Affairs and Homeland Security, Sen. Margaret  
O'Brien, Chair

DATE: Thursday, June 11, 2015

TIME: 8:00 AM

PLACE: Room 519, House Office Building, Lansing, MI

HB 4521 & HB 4527; and  
SB 0298 & SB 0299

Dear Representative Barrett, Senator O'Brien and Joint Members of the Military and Veterans Affairs Committees,

I am please to see the House and Senate working together to move these Bills forward. Please submit this email as my testimony as I am unable to attend the Joint Hearing.

Few things in life are certain, but one thing is. Despite State and federal laws that make discrimination against the disabled akin to racial discrimination, those of us that use service animals are sure to find it.

### What Will It Take?

For our State's Legislators to understand, much less embrace, the rights basis at the core of this disability rights issue?

They may understand that a curb ramp is needed; or that providing Braille or a sign language interpreter so that persons that are blind or deaf can communicate effectively is appropriate. But when it comes to service animals, they are seemingly incapable of grasping the concept that State laws may offer greater protection than federal laws, but state law cannot provide less protection than federal law; and that enacting laws that provide an alternate enforcement mechanism is NOT greater protection when those laws impose impermissible "conditions" on enforcement.

### **SB 298 & SB 299 Support**

SB 298 introduced by now Senator David Knezek, author of the original House Bill, 2014 HB 5374, and SB 299 introduced by Senator Margaret O'Brien demonstrate their

commitment to intelligently resolve elements of Michigan's current service dog laws that are out of sync with the intent of the Persons with Disabilities Civil Rights Act and the Americans with Disabilities Act.

### **HB 4521 Oppose**

The apparent theory behind HB 4521 is that having a State authority assume responsibility for verifying a person's disability, and authenticating that their animal is, in fact, a service animal; would entitle persons with disabilities to State issued service animal identification, tags and vests.

With respect to medical documentation that one "requires" a service animal, a medical professional may attest that a person's medical condition impairs one or more major life activities, but to state that one "requires" a service animal may be difficult to justify from a medical standpoint.

Furthermore, although HB 4521 does not say that persons with disabilities are required to obtain – and display - (state sanctioned) identification, tags and vests for their service animals, that will likely be the fast conclusion of housing providers, public accommodations and police officers who encounter a person with a service animal.

Finally, HB 4521's provisions will likely put the Michigan Department of Civil Rights in violation of the Americans with Disabilities Act since, as a public entity, the department is subject to the ADA Title II Regulation [28 C.F.R. 35] which expressly prohibits requiring medical documentation or proof of a service animals training.

#### **28 C.F.R. § 35.136 Service animals. (f) *Inquiries.***

A public entity shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public entity may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

### **HB 4527 Neither Support Nor Oppose**

To be certain, fraudulent service dogs are a real problem, and they need to be dealt with. However, I feel that it is patently unfair to impose the responsibility for a solution on persons with disabilities.

The area in which I am most concerned lies with the provisions of HB 4521 and HB 4527, taken together, being interpreted as requiring persons with disabilities to obtain and display state-issued service animal identification, tags and vests. Potentially

leading to persons with disabilities that do not being wrongfully arrested (and consequently separated from their service animals).

Please drop these ill-conceived Bills and work to craft a solution that protects the rights of persons with disabilities, without imposing “conditions” on the exercise of their right to be accompanied by their service animals.

Respectfully submitted

Judith Saylor  
Battle Creek, Michigan